IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4827 OF 2007

Shri Laxman Pandurang Divekar, age 47 years, Occ:- agriculture, R/o- At & P- Kadethan, Tal:- Daund, Dist:- Pune. .. Petitioner

Versus

1. Bhima Sahakari Sakhar Karkhana Ltd., A Cop.op. Sugar Factory registered under M.C.S.Act and Factories Act, having its Office At-Madhukar Nagar, Patas, Tal:- Daund, Dist:- Pune, Through its Managing Director, Shri R.D. Shitole.

2. The Collector, Pune, having his Office at Collector's Office, Near Pune Station, Pune - 411 001.

3. The District Deputy Registrar, Co-operative Societies, Pune Dist. Having his Office at - Sakhar Sankul Shivaji Nagar, Pune - 411 005.

4. The Regional Joint Director of Sugar Joint Registrar for Sugar Factories in Pune Region, having his office at Sakhar Sankul, Shivaji Nagar, Pune - 411 005.

5. The State of Maharashtra, Through the Secretary, Co-operation Department, Mantralaya, Mumbai. .. Respondents

Mr. S.P. Kadam and J.B. Choudhari for the petitioner.

Mr. A.V. Anturkar with S.S. Salukhe for the respondent No.1.

Mr. S.S. Bhende, AGP, for the respondents No.2 to 5.

CORAM: S.B. MHASE &
D.G. KARNIK, JJ.

DATED: 04TH JULY, 2007

ORAL ORDER : [Per S.B. Mhase, J.]

. Rule. Returnable forthwith.

2. The petitioner has approached this Court making a grievance that the term of the Managing Committee of the respondent No.1-Sugar Factory is coming to an end on or about 10th September, 2007 and, therefore, the elections of the respondent No.1-Society shall be completed prior to that date. It has been brought to our notice that some of the Members have made a representation to the Minister for Cooperation on 27th June, 2007 upon which the Cabinet Minister for Cooperation has passed an endorsement stating that the Collector shall hold the elections on time. Mr. A.V. Anturkar, the learned counsel for the respondent No.1 submitted that the Chairman & Managing Director of the respondent No.1-Sugar Factory has submitted an application dated 25th June, 2007, to the Cabinet Minister for Cooperation. However, from the endorsement on the said application it appears that it has been received in the office of the Cabinet Minister on 26th June, 2007. No orders have been passed on the said application. It has been prayed in that application that in view of the rainy season, the powers under

Section 73-IB be exercised and the term of the Board-Managing Committee of the respondent No.1 be extended for a further period of three months. Even though under Section 73-IB the power is with the Government to postpone the election in the rainy season and/or whenever there is any natural calamity, the said power has not been exercised by the Government concerning respondent No.1 till today. We asked the learned counsel for the State as to what is the state of affairs with the respondent. The learned Assistant Government Pleader pointed out that the programme in respect of the preparation of Voters' List has already been published and, thus, the process of election has commenced.

3. Under these circumstances, what we find is that the Government desires to hold the election prior to the end of the term of the Managing Committee of the respondent No.1. In a democratic set-up, every Managing Committee is expected to be ready to face elections. Exceptional circumstances are to be considered by the Government. There is no right with the Member of the Managing Committee to rely upon a particular provision for postponement of the election. In the present matter, since the Government has taken a decision to hold the election, we find no merit in the submissions

made by Mr. Anturkar viz. that the directions be issued to the respondent-State to reconsider his representation. One more aspect requires to be stated that the Managing Committee of the respondent No.1 is not a party to these proceedings. Respondent No.1 is a Sugar Factory and Sugar Factory being body corporate under the Maharashtra Cooperative Societies Act, 1961, has no reason to oppose for holding of the elections. This aspect also persuades us to reject the submissions made by Mr. Anturkar. We are of the opinion that in a democratic set-up, the election should be held in due course of time so as to elect the duly elected Managing Committee of the Societies on time and, therefore, we allow the Petition in terms of prayer clause (b).

4. Writ Petition stands disposed of accordingly.

Sd/-
[D.G. KARNIK, J.]

Sd/-
[S.B. MHASE, J.]